



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[231121-0275]

[RTID 0648-XD495]

Fisheries of the Northeastern United States; Atlantic Deep-Sea Red Crab Fishery;

2024-2027 Atlantic Deep-Sea Red Crab Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed specifications; request for comments.

SUMMARY: We are proposing specifications for the 2024 Atlantic deep-sea red crab fishery, including an annual catch limit and total allowable landings limit, and projecting quotas for the 2025-2027 Atlantic deep-sea red crab fishery. The proposed action is intended to establish the allowable 2024 harvest levels, consistent with the Atlantic Deep-Sea Red Crab Fishery Management Plan. This action is necessary to establish allowable red crab harvest levels that will prevent overfishing.

DATES: Comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2023-0140, by the following method:

Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal.

1. Go to <https://www.regulations.gov>, and enter “NOAA-NMFS-2023-0140” in the Search box;
2. Click the “Comment” icon, complete the required fields; and

3. Enter or attach your comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personally identifiable information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields, if you wish to remain anonymous).

Copies of the specifications document, including the Regulatory Flexibility Act Analysis, and other supporting documents for the specifications, are available from Dr. Catherine O’Keefe, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950 or at <https://www.nefmc.org/management-plans/red-crab>. The specifications document is also accessible via the Internet at: <https://www.greateratlantic.fisheries.noaa.gov/>.

FOR FURTHER INFORMATION CONTACT: Allison Murphy, Fishery Policy Analyst, (978) 281-9122.

SUPPLEMENTARY INFORMATION:

Background

The Atlantic deep-sea red crab fishery is managed by the New England Fishery Management Council (Council). The Atlantic Deep-Sea Red Crab Fishery Management Plan (FMP) includes a specification process that requires the Council to recommend an acceptable biological catch (ABC), an annual catch limit (ACL), and total allowable landings (TAL) every four years. The Council’s Scientific and Statistical Committee (SSC) provides a recommendation to the Council for the ABC. The Council makes a recommendation to NMFS that cannot exceed the ABC recommendation made by the

SSC.

The FMP was implemented in 2002 and was originally managed under a target total allowable catch (TAC) and days-at-sea (DAS) system that allocated DAS equally across the small fleet of limited access permitted vessels. Amendment 3 to the FMP removed a trip limit restriction, and replaced the target TAC and DAS allocation with a catch-limit structure consistent with the ACL and accountability measure requirements of the Magnuson-Stevens Fishery Conservation and Management Act. Under Amendment 3 (76 FR 60379; September 29, 2011), the 2011-2013 red crab specifications were set with an ABC equal to the long-term average landings of the directed red crab fishery (3.91 million pounds or 1,775 metric tons (mt)). These specifications were continued for fishing years 2014-2016 (79 FR 24356; April 30, 2014) and 2017-2019 (82 FR 11322, February 22, 2017; 83 FR 4849, February 2, 2018; 83 FR 66161, December 26, 2018). Specifications were increased to 2,000 mt for fishing years 2020 through 2023 (85 FR 20615, April 14, 2020; 86 FR 16077, March 26, 2021; 87 FR 3697, January 25, 2022; 88 FR 788, January 5, 2023).

Proposed Specifications

The biological and management reference points currently in the FMP are used to determine whether overfishing is occurring or if the stock is overfished. There is insufficient information on the species to establish the maximum sustainable yield, optimum yield, or overfishing limit (OFL). The ABC is defined in terms of landings instead of total catch because there is insufficient information to estimate dead discards of red crab.

The Council's recommendation for the 2024-2027 red crab specifications is based on the results of the 2023 management track assessment update for the red crab fishery and the recommendations of the Council's SSC. The recommended specifications maintain status quo specifications of 4.409 million lb (2,000 mt) from fishing years 2020

through 2023. While an OFL has not been determined for the stock, the Council and its SSC assert that the increased catch limit will not result in overfishing and adequately accounts for scientific uncertainty due to past performance of not exceeding past specifications.

Recent landings, landings per unit of effort, port samples, discard information, and economic data suggest there has been no change in the size of the red crab stock since Amendment 3 was implemented in 2011. On August 10, 2023, the SSC recommended a 2,000-mt ABC for fishing years 2024-2027 for the directed fishery. The Council approved the 2,000-mt ABC, ACL, and TAL on September 26, 2023. We are proposing the Council-recommended specifications for fishing year 2024. By providing projected quotas for 2025-2027, we hope to assist fishery participants in planning ahead.

At the end of each fishing year, we evaluate catch information and determine if the quota has been exceeded. If a quota is exceeded, the regulations at 50 CFR 648.262(b) require a pound-for-pound reduction in a subsequent fishing year, through notification consistent with the Administrative Procedure Act. We would publish a notice in the **Federal Register** of any revisions to the projected specifications if an overage occurs. We expect, based on the performance of the red crab fishery over time, that such adjustments would be unlikely. Current fishery projections indicate that no adjustment would be necessary for fishing year 2024. We will provide notice of the final 2025-2027 quotas prior to the start of each respective fishing year.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Atlantic Deep-Sea Red Crab FMP, other provisions of the Act, and other applicable law, subject to further consideration after public comment.

This action is exempt from review under Executive Order 12866.

The Chief Counsel for Regulation, Department of Commerce, certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The Council prepared an analysis of the potential economic impacts of this action, which is included in the Council's document for this action (see **ADDRESSES** to obtain a copy of the supplemental information report) and supplemented by information contained in the preamble of this proposed rule. For Regulatory Flexibility Act (RFA) purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR part 200). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$11 million for all its affiliated operations worldwide. The determination as to whether the entity is large or small is based on the average annual revenue for the three years from 2020 through 2022.

Due to the small size of the limited access red crab fleet (five permits, four active vessels) and its ownership, data regarding this fleet are considered confidential. However, when combined with all active red crab permits (limited access and open access), data are public and can be presented. This likely provides an overestimate on the scale and participation in the red crab fishery, given that the limited access permits comprise the vast majority of landings and, therefore, revenue. Under this rule and with these caveats, there are between 6 and 7 business entities and anywhere from 20 to 26 vessels to which the rule applies. Table 1 summarizes the number of affiliate groups, number of permits, business size, average affiliate revenue, and aggregated affiliate revenue for the business entities described above. All entities have been determined to be small entities.

Table 1 - Regulatory Flexibility Act Affiliate Groups of Active* Red Crab Permits from Calendar Year 2020-2022

Year	Number of Affiliate Groups	Number of Permits Across All Affiliate Groups	Small Business in Previous Year (All Affiliate Groups)?*	Average Affiliate Group Revenue (Nominal Dollars)	Aggregated Affiliate Group Revenues (Nominal Dollars)
2020	7	26	Yes	1,939,248	13,574,737
2021	6	20	Yes	1,857,039	11,142,231
2022	7	21	Yes	2,582,741	18,079,184
* Active permits include any vessel with a Federal red crab permit (PLAN RCB, CAT A, B or C) which reported landings of red crab in the Federal dealer database. All permits were included in this analysis to protect data confidentiality. Data sources: PERMIT, CAMS LAND and SSB's RFA dataset, accessed Oct 2023.					

There is no reason to expect that small entities will be adversely affected by the proposed action. The proposed action will affect these business entities and vessels in the red crab fishery, but it is not expected to have any impact on the gross or average revenues for the fishery because it does not change the total allowable landings, which is 4.409 million lb (2,000 mt). The proposed action is not expected to constrain landings markets for red crab substantially. Although total landings have increased recently, they remain at or below the total allowable landings limit, with market conditions driving landings more than this limit. Therefore, the proposed action is not expected to constrain landings or markets for red crab and is not expected to have a significant economic impact on a substantial number of small entities.

As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

This proposed rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 28, 2023.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

[FR Doc. 2023-26482 Filed: 11/30/2023 8:45 am; Publication Date: 12/1/2023]